

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02146-WYD-KLM

HARRY R. FOWLER,

Plaintiff,

v.

WERNER ENTERPRISES,

Defendant.

8:09CV65

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
09 FEB 20 PM 1:58
OFFICE OF THE CLERK

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on **Plaintiff's Request for Court Appointed Counsel** [Docket No. 12; Filed December 15, 2008] (the "Motion").

Plaintiff requests that the Court appoint counsel to represent him in the above-captioned case. However, the Court does not have the power to appoint an attorney without the attorneys' consent, *Mallard v. United States District Court for the Southern Dist. of Iowa*, 490 U.S. 296, 310 (1989), nor does the Court have funds available to pay an attorney who agrees to represent an indigent litigant in a civil case. Nevertheless, the Court can seek volunteer counsel to represent a plaintiff such as this Plaintiff if the Court determines in its discretion that is appropriate to do so. The Clerk of the Court maintains a list of *pro se* cases for which the court is seeking volunteer counsel.

The Court will only seek volunteer counsel for a *pro se* plaintiff if a consideration of the following factors so warrants: (1) the merits of the litigant's claims, (2) the nature of the factual issues raised in the claims, (3) the plaintiff's ability to present his claims, and (4) the

complexity of the legal issues raised. *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (citing *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991)). A further consideration is whether there exists any special circumstances such as those in *McCarthy v. Weinberg*, 753 F.2d 836, 837 (10th Cir. 1985), where the *pro se* plaintiff was confined to a wheelchair, had poor eyesight, suffered from a speech impediment and memory lapses, and had general difficulty in communications. See *Rucks*, 57 F.3d at 979.

In this case, Plaintiff has demonstrated his ability to frame facts and state claims for relief under various statutory provisions. His filings to date indicate that he has a firm grasp of the facts and issues in this case, that he is capable of presenting the case, and has presented his claims adequately. The legal issues, though varied, are not overly complex, novel, or difficult to state or analyze.

Accordingly, based on the foregoing and the entire record herein, IT IS HEREBY **ORDERED** that **Plaintiff's Request for Court Appointed Counsel** [Docket No. 12; Filed December 15, 2008] is **DENIED**.

BY THE COURT:

___s/ Kristen L. Mix_____

United States Magistrate Judge

Dated: December 15, 2008